

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

JAMES MORRISON,

Plaintiff,

vs.

DONAVAN WIND, CINDY LONGJAW-  
MOORE, BIA ROCKY MOUNTAIN  
REGIONAL DIRECTOR, and JOHN  
AND JANE DOES,

Defendants.

CV 18-000132-BLG-SPW-TJC

FINDINGS AND RECOMMENDATIONS  
OF UNITED STATES MAGISTRATE  
JUDGE

Plaintiff James Morrison filed a motion for leave to proceed in forma pauperis and a Complaint on August 28, 2018. (Docs. 1-2.) At the time of that filing, Mr. Morrison was incarcerated at the Yellowstone County Detention Facility.

On October 10, 2018, this Court granted Plaintiff James Morrison's motion for leave to proceed in forma pauperis and issued an Order directing monthly payments be made from his jail account. (Docs. 5, 6.) These Orders were served upon Mr. Morrison at the Yellowstone County Detention Center but were returned as undeliverable on October 16, 2018. (Doc. 7.)

Mr. Morrison was advised in the Court's August 28, 2018 Notice of Case Opening that he must immediately inform the Clerk of Court of any change in his address and a failure to do so could result in dismissal of his case. (Doc. 3 at 2.)

Mr. Morrison has not filed a notice of change of address.

The Local Rules for the District of Montana provide:

- (b) Dismissal Due to Failure to Notify. The court may dismiss a complaint without prejudice or strike an answer when:
  - (1) a document directed to the attorney or self-represented party by the court has been returned to the court as not deliverable; and
  - (2) the court fails to receive within 60 days of this return a written communication from the attorney or self-represented party indicating a current address for service.

L.R. 5.2(b).

On October 16, 2018, the Court issued an Order requiring Mr. Morrison to notify the Court of his current address for service within 60 days. (Doc. 8.) That Order was returned as undeliverable. (Docs. 9, 10.) Within the following 60-day period, and as of the date of this recommendation, Mr. Morrison has not provided the Court with a written notice informing it of his change of address.

Therefore, IT IS HEREBY RECOMMENDED that all pending motions should be terminated and this action DISMISSED without prejudice pursuant to L.R. 5.2(b).

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Mr. Morrison may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.<sup>1</sup> 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 19<sup>th</sup> day of December, 2018.

/s/ Timothy J. Cavan  
Timothy J. Cavan  
United States Magistrate Judge

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<sup>1</sup>Rule 6(d) of the Federal Rules of Civil Procedure provides that “[w]hen a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail) . . . 3 days are added after the period would otherwise expire under Rule 6(a).” Therefore, since Mr. Morrison is being served by mail, he is entitled an additional three (3) days after the period would otherwise expire.